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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,886	06/01/2007	Donald A. Stevens	4417-062209	2358

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EXAMINER

TRIGGS, ANDREW J

ART UNIT	PAPER NUMBER
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3635

NOTIFICATION DATE	DELIVERY MODE
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05/24/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@webblaw.com

Office Action Summary	Application No. 10/587,886	Applicant(s) STEVENS, DONALD A.	
	Examiner Andrew J. Triggs	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-10,12-16,21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) 21 and 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-10 and 12-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Examiner acknowledges claim 1 has been amended and claim 17 has been cancelled.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 6-10 and 14-16 rejected under 35 U.S.C. 102(b) as being anticipated by US Patent # 6,550,206 to Lee.

Regarding claim 1, Lee teaches, in Figure 8, a framing system comprising plank

members (10) and at least two frame members (20) of an underlying structure, wherein the frame members (20) are spaced apart from one another. Figure 5 shows the plank member (10) has a front, generally flat, surface and an opposing back surface with at least one receptor pocket (12, 16 and 18) extending therein.

Figure 3 shows the frame members (20) have at least one resilient (Plastic, Column 2, Lines 34-35) rib (25 and 28) protruding therefrom. Figure 7 shows the rib of each frame member engages with each pocket of the plank member.

Figure 3 shows one of the resilient ribs (25) has a profile with a first and a second side which diverge from one another as they extend away from the member (20) to which they are attached and converge to a tip at the furthestmost extension of the rib (25) away from the member (20). The rib (25) has a maximum height and

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the pocket (12, 16 and 18) has a minimum width less than that of the maximum height of the rib such that the rib is captured within the receptor pocket [Figure 7]

Regarding claim 2, Lee teaches, in Figure 7, that the plank member (10) and the frame member (20) are secured to one another through the engagement of the resilient rib and the receptor pocket.

Regarding claim 6, Lee teaches that the rib is connected to the frame or joint base (20) which is made from a plastic material (Column 2, Lines 34-35) which would be resilient and be capable of compressing for resiliency.

Regarding claim 7, Lee teaches, in Figure 3, that the ribs (25 and 28) are continuous between the first side and the second side to define a solid rib.

Regarding claim 8, Lee teaches that the plank members are made from wood (Column 2, Line 21). Wood can be resilient to a certain point before the wood is stressed too much such that it cracks.

Regarding claim 9, Lee teaches that the receptor pockets are “snap grooves” (Column 2, Lines 29-31), thus the walls of the pocket are pushed apart to accommodate the rib. Furthermore, the applicant should note, regarding the limitation “the walls of the at least one receptor pocket are pushed apart” that determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production.

Regarding claim 10, Lee teaches, in Figure 3, that the ribs (25 and 28) are barbed.

Regarding claim 14, Lee teaches, in Figure 7, that the receptor pocket is in the plank (10) and the ribs are in the frame member (20).

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Regarding claim 15, Lee teaches, in Figure 7, that each plank member (10) interlocks with an adjacent plank member (10) by flanges (11) and grooves (15).

Regarding claim 16, Lee teaches, in Figure 7, that each of the plank members (10) are overlapping with adjacent plank members (10) by flanges (11) and grooves (15).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent # 6,550,206 to Lee in view of US Patent # 6,226,934 to Gaston.

Regarding claim 4, Lee teaches a framing system with ribs (25) wherein the first side and the second side of the rib are spaced apart as they extend away from the member but Lee does not teach the first and second sides define a hollow interior therebetween. However, Gaston teaches, in Figure 4a, a rib (10) that has a hollow interior (14). Hollow ribs are known and it would have been obvious to try to one of ordinary skill in the art and yield predictable results and have a reasonable expectation of success. Therefore, the invention as a whole would have been obvious to one of ordinary skill in the art at the time the invention was made.

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Regarding claim 5, Lee teaches that the rib is connected to the frame or joint base (20)

which is made from a plastic material (Column 2, Lines 34-35) which would be resilient and be capable of resilient bending.

6. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent # 6,550,206 to Lee.

Regarding claim 12, Lee teaches a framing system but does not teach the receptor

pocket is within the frame member and the rib is within the plank member, he teaches the opposite where the receptor pocket is within the plank member and the rib is within the frame member. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to reverse the receptor pocket and the rib since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

Regarding claim 13, Lee teaches, in Figure 7, that the rib (25 and 28) is a separate piece secured to the back surface of the plank member (10).

Response to Arguments

7. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew J. Triggs whose telephone number is 571-270-3657. The examiner can normally be reached on Monday through Thursday 6:30am - 5:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew J Triggs/
Examiner, Art Unit 3635
/Basil Katcheves/
Primary Examiner, Art Unit 3635